

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF
BLAKE ESTATES ASSOCIATES II FOR THE
AUTHORIZATION AND APPROVAL OF A PROJECT
UNDER MASSACHUSETTS GENERAL LAWS (TER.ED.)
CHAPTER 121A AS AMENDED, AND CHAPTER 652
OF THE ACTS OF 1960, TO BE UNDERTAKEN AND
CARRIED OUT BY A LIMITED PARTNERSHIP
ORGANIZED PURSUANT TO M.G.L., C.109 AND
APPROVAL TO ACT AS AN URBAN REDEVELOPMENT
LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A

A. The Hearing. A public hearing was held at 2:00 p.m. on September 20, 1979 in the offices of the Boston Redevelopment Authority (hereinafter called the "Authority"), at City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an Application dated July 26, 1979. (hereinafter called the "Application"), filed by Norman B. Leventhal and Edwin N. Sidman on behalf of Blake Estates Associates II, for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended, (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on September 6, 1979, and September 13, 1979 in the Boston Herald American, a daily newspaper of general circulation published in Boston and mailing postage prepaid in accordance with Rule 4 of the Rules and Regualtions of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority, James G. Colbert, Joseph J. Walsh, James K. Flaherty and James E. Cofield, Jr., members of the Authority, were present at the hearing.

B. The Project. The Project Area consists of 73,513 square feet of land on Hyde Park Avenue. A full metes and bounds description is found in Appendix Item 19 of the Application. The Project will provide for the construction of 88 apartment units for senior citizens of the Hyde Park community. The Project will be interconnected with Blake Estates Associates which consists of 175 apartment units for senior citizens. The Project will consist of 79 one bedroom units, and 9 two bedroom units and will include 9 units specially designed for occupancy by physically handicapped persons. The apartment units will be housed in a 2½ story building, constructed with a non-combustible structural frame with a facade of wood and brick veneer. An elevator and interconnecting corridors provide easy access to all points from within the building. The Project will be interconnected with Blake Estates Associates community facilities, including large entrance lounge, multi-purpose meeting room, library.billiards room, crafts room and laundry facilities of Blake Estates Associates (Phase I). The development will also provide for the construction of 30 off-street parking spaces, and extensive planting and landscaping of the Project Area, including exterior open courtyards, walking and sitting areas.

The 88 apartment units will be equipped with carpeting, blinds, disposal, stove, refrigerator, air conditioning equipment, smoke detectors, emergency call system and an intercom and closed circuit security system. The kitchen and bathroom hardware will be designed for safety and easy operation by the elderly and handicapped.

The apartments are intended for occupancy by low-income elderly individuals and handicapped persons, eligible for rental subsidies provided by HUD pursuant to Section 8 of the U.S. Housing Act of 1937, as amended.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing, and arguments and statements made at the hearing.

D. Project Area. The Project as defined in the Application constitutes a "Project" within the meaning of Section 1 of Chapter 121A of the General Laws, providing, as it does, for the construction in a blighted, open and decadent area of decent, safe, and sanitary housing for the elderly.

The Project Area, (except for the 9,046 square feet located at 8 - 10 Walnut Place, and the area of Walnut Place, a private street), was previously declared to be a blighted, open, decadent or substandard area under Chapter 121A of the General Laws of the Commonwealth of Massachusetts by the Authority in its Report and Decision dated December 28, 1978, approving the Application of Blake Estates Associates for the construction of the first phase of elderly housing. In the opinion of the Applicant, the Project Area is presently a blighted, open/decadent area, as defined in Chapter 121A, which is detrimental to the safety, health, morals or sound growth of the community for the following reasons:

The industrial buildings which formerly existed on the Project Area were razed and torn down in 1973. Under the ordinary operations of private enterprise, it appears improbable that the industrial buildings which were torn down will be replaced. Applicant has been

advised by the former owner (see Appendix Item Number 17 to the Application) that it has no desire of rebuilding the former inudstrial buildings. Furthermore, the former owner's real estate broker has indicated to the Applicant that there has been no interest by any prospective purchaser to build industrial buildings on the Project Area.

It is improbable that multi-family housing will be constructed on the Project Area through the ordinary operations of private enterprise. Without MHFA financing, in accordance with the commitment, Applicant estimates that the apartment units would require a rental of \$568 per month for a one bedroom unit, and \$616 for a two bedroom unit. This level of rent is substantially above the rents charged by conventional apartments in the Hyde Park Area. Therefore, in the opinion of the Applicant, said Project could not be rented at the rents required without government subsidies and 121A status.

The additional area to be added to the Project Area as originally designated by the Authority, is necessary for the proper redevelopment of the Project within that area previously designated as open, blighted and substandard. Said additional area will provide additional tenant parking.

The site would not be developed without the real estate taxes being limited to a percentage of the Project's estimated gross annual income, evidenced by the requirement of the mortgage lender attached to the Application. Percentage levels as a basis for taxation can only be lawfully agreed to by the City of Boston under G. L. Chapter 121A, Section 6A. These conditions and other factors referred to in the Application and this Report and Decision warrant the carrying out of the Project in accordance with Chapter 121A.

For these reasons it is found that the Project Area is a blighted, open and decadent area within the meaning of Chapter 121A, as amended. It is unlikely that the conditions will be remedied by the ordinary operations of private enterprise.

The Project will provide substantial financial return to the City of Boston. The amounts to be paid in lieu of real estate taxes by the Applicants are set forth in the Application. There shall be paid to the City of Boston a percentage payment in lieu of or real estate taxes, in each of the forty (40) calendar years after approval of the Project.

E. Cost of the Project. In the opinion of the Authority, the cost of the Project has been realistically estimated in the Application and the Project is practicable. The estimated minimum cost of the Project will be approximately \$3,514,909. A mortgage loan commitment for 90% of this cost, or \$3,163,418 was voted by MHFA on June 5, 1979. The commitment is conditional on the Authority's 121A determination, as well as other terms and conditions which are more fully described in Appendix Item Number 5, where a copy of the MHFA commitment is included in the Application.

The Applicant will pay interest on an 18 month construction loan at an estimated rate of 7.25%, while the permanent loan will run for a 30 year period at an estimated constant annual percentage rate of 8.716% including amortization and MHFA financing fees.

It is expected that the Project will receive rental assistance payment under Section 8 of the U.S. Housing Act of 1937, as amended, for 100% of the units. Pursuant to Section 8, HUD pays the difference between the fair market rent and 25% of the tenant's adjusted gross income. An Agreement to Enter Into a Housing Assistance Payment Contract is expected to be executed with HUD on or before September 30, 1979; the initial amount of the Contract will be for annual contributions by HUD, is expected not to exceed \$537,840. The limited partnership agreement is filed with the Application. The only persons natural or corporate, who prior to completion of the project, have or will have, directly or indirectly any beneficial interest in the project are as follows:

Blake Estates Associates II
General Partners:

Norman B. Leventhal
Edwin N. Sidman

Original Limited Partners:

Alan M. Leventhal
Mark S. Leventhal
Robert J. Perriello
Lawrence D. Selkovits
Paula L. Sidman
Harvey Steinberg

The Beacon Companies, including their affiliates

Beacon Construction Company, Inc.
Pemberton Management Company
Massachusetts Housing Finance Agency

Experience with similar financing and organization methods persuades that the financial program is realistic.

F. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston as the Project Area falls within a classification in the Master Plan which permits buildings and uses of kind proposed by the Applicants.

G. Effect of the Project. The Project will not be in any way detrimental to the best interests of the public or the City of Boston or to the public safety and convenience and is not inconsistent with the most suitable development of the Project Area neighborhood

or of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The Plans for the development to be built on the Project Site have been reviewed by the Design Review Staff of the Authority. The Authority finds that this Project will enhance the general appearance of the Area and will furnish attractive and necessary landscaping and provide much needed housing in the Hyde Park Area. The Project will have a positive economic impact on the neighborhood surrounding the Project Area and on the City of Boston. During construction of the Project, the Project general contractor will be required, to the best of its ability, to grant preference in hiring to Boston residents as set forth in the Application.

H. Environment Considerations. Pursuant to the provisions of Section 61 of Chapter 30 of the General Laws (as inserted by Chapter 781 of the Acts of 1972), the Authority hereby finds and determines that the Project will not result in significant damage to or impairment of the environment and further finds and determines that all practicable and feasible means and measures have been taken, or will be utilized, to avoid or minimize damage to the environment.

As a result of the investigations and report of the Authority's staff and of its own knowledge, the Authority hereby finds that:

1. The Project will not adversely affect any open space or recreation area of any aesthetic values in the surrounding area.
2. The Project will not adversely affect any archaeological or historical site, structure, or feature.

3. The Project will not adversely affect any significant natural or man-made feature or place but is determined to be compatible with the surrounding environment.
4. Being located in an urban area, the Project will not affect any wilderness area or area of significant vegetation and will not adversely affect any rare or endangered fisheries, wildlife or species of plants.
5. The Project will not alter or adversely affect any flood hazard area, inland or coastal wetland, or any other geologically unstable area.
6. The Project will not involve the use, storage, release, or disposal of any potentially hazardous substances.
7. The Project will not affect the potential use or extraction of any agricultural, mineral, or energy resources.
8. The Project will not result in any significant increase in consumption of energy or generation of solid waste.
9. The Project will not adversely affect the quantity or quality of any water resources and will not involve any dredging.
10. Except necessarily during the construction phase, the Project will not result in the generation of a significant amount of noise, dust, or other pollutants, and will not adversely affect any sensitive receptors.
11. The Project will not adversely affect any area of important scenic value.
12. The Project will not conflict with any Federal, State, or local land use, transportation, open space, recreation, and environmental plans and policies.
13. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such a manner as will cause damage to the environment.

In order to avoid or minimize any damage to the environment, the Authority hereby requires that the applicant comply with the City of Boston Air Pollution Control Commission's Regulations for the Control of Noise and Regulations for the Control of Atmospheric Pollution

during all phases of construction activity. In addition the applicant shall comply with all provisions as set forth in the Order of Conditions, issued by the Boston Conservation Commission under the Wetlands Protection Act (M.G.L., Ch. 131, s.40.), attached hereto as Exhibit B.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set forth in Exhibit 16 filed with and attached to the Application, are hereby adopted and imposed as Rules and Regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in Exhibit 13, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement with the Authority pursuant to the requirements of General Laws, Chapter 121A, Section 18C, and containing such other terms and conditions as the Authority may in its discretion deem necessary and appropriate; (2) submit to the Authority for its review and approval all plans and specifications for the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate, and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will not require the grant of a permit for the erection, maintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or

private hospital having more than 25 beds, or as a church.

The Project will not require a declaration that any of the buildings constituting a portion of the Project constitute a separate building for the purpose of G.L. c. 138 (which relates to alcoholic beverages).

J. Zoning Code Deviations. Appendix 10 to the Application lists the zoning code deviations requested. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority finds that the deviations attached hereto and incorporated by reference as Exhibit A are necessary for the carrying out of the total project and are therefore granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations respectively.

K. Duration of Period of Tax Exemption. In addition to the base term of 15 calendar years for the Project's period of tax exemption pursuant to the provisions of Section 10 of Chapter 121A, as amended, the Applicant has requested an extension of 25 calendar years. The request is based on the fact that the Applicant is proposing a Project that is to be financed and subsidized under Federal and State programs to assist the construction of low and moderate income housing and is hereby granted by the Authority.

In the event that prior to the expiration of the forty years, the project ceases to be a subsidized project pursuant to the HUD, Section 8 Program as outlined on page 6 hereto, or a similiar contract or commitment under any successor subsidy program and the Owner has failed to enter into a new 6A Tax Agreement prior to the expiration

of the Section 8 subsidy then the Authority and Owner agree that the Project shall pay to the City of Boston, pursuant to Section 6A, Chapter 121A, an amount equal to that which the Project would pay if taxed in accordance with the City of Boston taxing procedures less any excise payable under Chapter 121A.

L. Decision. For all the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, subject to the provisions as set forth above.

EXHIBIT A

ZONING DEVIATIONS

Deviations From Boston Zoning Code:

The following deviations from the Boston Zoning Code are hereby requested as part of the 121A approval:

a. Section 8-7, Use Item No. 7:

Multi-family dwellings is conditional use in M-1 Zone.

Deviation Requested: Multi-family dwellings use in M-1 Zone is requested.

b. Section 8-7, Use Item No. 71:

Ancillary use is conditional use in R-.5 Zone.

Deviation Requested: Ancillary use for a parking lot, a portion of which is to be located on adjacent lot in R-.5 Zone, is requested.

c. Section 19-5:

Side yards of 10' are required in M-1 Zone used for dwelling purposes where abutting an R-.5 Zone.

Deviation Requested: All side yard requirements are met, except along the boundary between Phase I and Phase II. In two areas along this boundary no side yard is provided, as the proposed building will physically connect to, as a continuation of, the Phase I building currently under construction.

d. Sections 20-1 And 20-6:

Rear yard of 40' is required where rear lot line abuts an R-5 District, except where building is not parallel to rear lot line, where 30' is required.

Deviation Requested: Where building is parallel to rear lot line, no less than 10' is provided.

e. Section 23-8:

Requires off-street parking facilities to be located on said lot as main use to which it is accessory.

Deviation Requested: A portion of the parking lot is to be located on additional parcel (8 - 10 Walnut Place), which will be under the same ownership as remainder of Project Area.

f. Section 13-1, Table B:

Specifies a maximum building height of 35' and 2-1/2 stories in an M-1 Zone.

Deviation Requested: Although the height of the building does not exceed 35', three living levels are provided, therefore, a deviation from Section 13-1 is requested.

EXHIBIT B

FORM 4

ORDER OF CONDITIONS

WETLANDS PROTECTION ACT

G.L. C. 131, s. 40

CITY/TOWN BOSTONFILE NUMBER 6 - 132TO: NAME Jack A. LevyADDRESS Blake Estate Associates II
c/o the Beacon Companies
One Center Plaza
Boston, Mass. 02108CERTIFIED MAIL NUMBER 725458

PROJECT LOCATION:

Address 1344A Hyde Park Ave., Hyde Park, Mass.Recorded at Registry of SUFFOLK, Book 9133, Page 53.

Certificate (if registered) _____

REGARDING:

Notice of Intent dated August 29, 1979

and plans titled and dated "Site Grading Plan", May 18, 1979, and "Soil Erosion Plan," August 22, 1979

THIS ORDER IS ISSUED ON(date) October 2, 1979

Pursuant to the authority of G.L. c. 131, s. 40, the BOSTON CONSERVATION COMMISSION has reviewed your Notice of Intent and plans identified above, and has determined that the area on which the proposed work is to be done is significant to one or more of the interests listed in G.L. c. 131, s. 40. The Commission hereby orders that the following conditions are necessary to protect said interests and all work shall be performed in strict accordance with them and with the Notice of Intent and plans identified above except where such plans are modified by said conditions.

CONDITIONS

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this order.
2. This order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws and/or regulations.
4. The work authorized hereunder shall be completed within one (1) year from the date of this order unless it is for a maintenance dredging project subject to Section 5(9). The order may be extended by the issuing authority for one or more additional one-year periods upon application to the said issuing authority at least thirty (30) days prior to the expiration date of the order or its extension.

17. No debris, rubble or trash from this project shall be allowed to fall or remain in the waters of the Mother Brook or the Neponset River.
18. All surface runoff from the developed areas of the site shall be directed into the City storm system. No drainage from such areas shall be allowed into the Mother Brook or the Neponset River.
19. Siltation during construction shall be reduced by hay bale barriers as described in the plans submitted.
20. All drains in the parking area shall be fitted with catch basins and oil separators. These shall be maintained so as to perform according to specifications.
21. All debris and rubble from this project which is to be taken off the site shall be disposed of legally at a site which has the prior written approval of this Commission.
22. No salt or deicing chemicals shall be used on the site.
23. The banks of Mother Brook shall be kept clean of debris at all times.

The applicant, any person aggrieved by this order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to appeal this order to the Department of Environmental Quality Engineering provided the request is made in writing and by certified mail to the Department within ten (10) days from the issuance of this order.

ISSUED BY Boston Conservation Commission

Robert B. Hall
John E. Carty
Graham P. Brown
Edith G. DeAngelis

On this 27th day of September 1974, before me personally appeared Robert B. Hall and known to be the person described in, and who executed, the foregoing instrument and acknowledged that he executed the same as his free act and deed.

Graham P. Brown My Commission expires March 31, 1981

DETACH ON DOTTED LINE AND SUBMIT TO THE ISSUER OF THIS ORDER PRIOR TO COMMENCEMENT OF WORK.

TO _____ (Issuing Authority)

PLEASE BE ADVISED THAT THE ORDER OF CONDITIONS FOR THE PROJECT AT _____,

FILE NUMBER _____, HAS BEEN RECORDED AT THE REGISTRY OF _____,

ON (DATE) _____.

If recorded land, the instrument number which identifies this transaction is _____.
If registered land, the document number which identifies this transaction is _____.

Signed _____
Applicant

3864

MEMORANDUM

OCTOBER 11, 1979

TO: BOSTON REDEVELOPMENT AUTHORITY
FROM: ROBERT J. RYAN, DIRECTOR
SUBJECT: REPORT AND DECISION ON THE CHAPTER 121A APPLICATION
OF BLAKE ESTATES ASSOCIATES II

On September 20, 1979, the Authority conducted a public hearing with respect to the above-captioned Application.

The Project consists of the construction of 88 units of housing for the elderly and handicapped in the Hyde Park Area.

The Staff has examined the Application and found that it contained sufficient evidence in support of the Project to permit the Authority to make those findings and determinations necessary to proceed with the approval of the Project.

It is therefore recommended that pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision approving the Project.

An appropriate Vote follows:

VOTED: That the document presented at this meeting entitled "Report and Decision On The Application of Blake Estates Associates II for the Authorization and Approval of a Project Under Massachusetts General Laws (Ter.Ed.) Chapter 121A, As Amended, and Chapter 652 of the Acts of 1960, to be undertaken and Carried Out by a Limited Partnership Organized Pursuant to M.G.L., C. 109 and Approval to Act as an Urban Redevelopment Limited Partnership Under said Chapter 121A" be and hereby is approved and adopted.